

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1774 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements? No.

2. To be referred to the Reporter or not? No. :

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement? No.

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No.

5. Whether it is to be circulated to the Civil Judge? : NO
No.

PURSOTTAMBHAI FUSABHAI SOLANKI

Versus

DISTRICT PANCHAYAT

Appearance:

MR MB GANDHI for Petitioners
HL PATEL ADVOCATES for Respondent No. 1
RULE NOT RECD BACK for Respondent No. 2
MR JK PARMAR for Respondent No. 3

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 06/10/2000

ORAL JUDGEMENT

This revision application has been filed against
the order dated 8-10-1999 passed below the application
exh. 36 in Darkhast Proceedings No. 29/98.

2. The application exh. 36 has been rejected by the executing Court only on the ground that Misc. Civil Appeal No. 411/99 has been filed against the judgment and decree passed in Spl. Civil Suit No. 351/88 which has been decreed. Against the said judgment and decree First Appeal No.5417/98 has also been filed before this Court and that appeal is still pending.

3. Learned counsel for the petitioner states that the application for condonation of delay has yet to be heard and decided and the appeal filed before this Court has also yet not been admitted so far.

4. In pursuance of the judgment and decree, the decretal amount has been deposited in the trial Court and the petitioner is required to be permitted to withdraw 50% of the decretal amount deposited in the trial Court.

5. The petitioner moved the application exh. 36 for withdrawal of decretal amount which has been rejected by the impugned order and against that order, the present revision application is filed before this Court.

6. According to the learned counsel for the petitioner, the petitioner is require to be permitted to withdraw 50% of the decretal amount deposited in the trial Court.

7. I have carefully considered the contentions of the learned counsel parties and perused the material on record.

8. In the facts and circumstances of this case, the petitioner is permitted to withdraw 50% of the decretal amount including the amount of Rs. 50,000/- which has already been withdrawn by the petitioner. The trial Court is directed to invest the remaining 50% of deretal amount in any nationalized Bank for at least period of three years. The petitioner is entitled to withdraw periodical interest that may be accrued on the fixed deposit amount. The petitioner is further at liberty to move an application before the Appellate Bench of this Court for withdrawal of remaining 50% of decretal amount.

9. Accordingly, this application is allowed. Rule is made absolute to the aforesaid extent, with no order as to costs.

